

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Geoffrey B. Rhoads, et al.

Title: PAPER PRODUCTS AND
PHYSICAL OBJECTS AS MEANS
TO ACCESS AND CONTROL A
COMPUTER OR TO NAVIGATE
OVER OR ACT AS A PORTAL ON
A NETWORK

Appl. No.: 10/764,430

Filing Date: 01/23/2004

Examiner: Barnard KRASNIC

Art Unit: 2624

Confirmation 6076
Number:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent application and have determined that the patent is entitled to 938 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 1,316 days

(b) Total Applicant delay: 378 days

Final PTA Determination under 37 CFR §1.703(f): 938 days

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

Applicant believes that this discrepancy occurred as a result of the PTO's failure to include 310 days of additional PTA accumulated in applicant's favor based on the provisions of 37 C.F.R. §§ 1.702(b)(1) and 1.703(b)(1), wherein PTA begins to accumulate in applicant's favor on the day after the commencement of three years from the filing date.

A Request for Continued Examination was filed in the application prior to allowance, and Patent Term Adjustment accordingly stopped accruing under 37 C.F.R. §1.703(b) on 10/30/2008. This PTA component was accordingly "ripe" at the time of allowance and accordingly could have been incorporated into the PTO's determination of PTA.

37 C.F.R. §1.705(d) states that "Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues." As the above-identified issue could arguably be raised under paragraph (b), the applicant is filing this request for reconsideration under an abundance of caution, in the knowledge that the PTO does not include patent term adjustment resulting from 37 C.F.R. §1.703(b) in its PTA calculations at allowance, even if PTA has stopped accruing due to the filing of an RCE.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

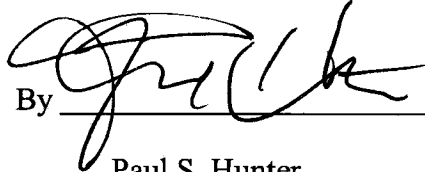
Applicants therefore respectfully request that the patent be accorded 938 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

By  _____

Paul S. Hunter
Attorney for Applicant
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Date June 14, 2011

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Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 098888-1820

Application Number: 10/764430

Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	01/23/2004	0		
Edit Delete	Notice to File Missing Parts	04/30/2004	98		
	Notice to File Missing Parts + 3 months	07/30/2004	189		
Edit Delete	Response to Notice to File Missing Parts	09/03/2004	224		35
	14 month From Application date	03/23/2005	425		
	3 Year Period Starts	01/23/2007	1,096		
Edit Delete	Non-Final Office Action	09/04/2007	1,320	(895)	
	Non-Final Office Action + 3 months	12/04/2007	1,411		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	02/29/2008	1,498		87
	Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo	06/29/2008	1,619		
Edit Delete	Final Office Action	07/02/2008	1,622	(3)	
	Final Office Action + 3 months	10/02/2008	1,714		
	3 Year Period Stopped	10/29/2008	1,741	(645) 1316	
Edit Delete	Request For Continued Examination (including amendment)	10/30/2008	1,742		28
Edit Delete	Non-Final Office Action	11/28/2008	1,771		
	Non-Final Office Action + 3 months	02/28/2009	1,863		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	05/28/2009	1,952		89
CLOSE WINDOW	ALL CASES				
Edit Delete	Final Office Action	09/01/2009	2,048		
	Final Office Action + 3 months	12/01/2009	2,139		
Edit Delete	Notice of Appeal Received at PTO	02/01/2010	2,201		62
Edit Delete	Request For Continued Examination (including amendment)	08/02/2010	2,383		
Edit Delete	Non-Final Office Action	09/20/2010	2,432		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	12/20/2010	2,523		
Edit Delete	IDS Rcv'd at PTO - No Statement under 1.704(d)	03/07/2011	2,600		77
Edit Delete	Notice of Allowance	03/17/2011	2,610		
	Projected Patent Grant Date	09/27/2011	2,804		
			Totals:	1,316	378
			PTA:	938	

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